



CPA Statement on the Anti-Terrorism Bill – 2023

The Centre for Policy Alternatives (CPA) observes that the Government published an 'Anti - Terrorism Bill' in the Gazette, on the [22nd of March 2023](#). This Bill seeks to abolish the Prevention of Terrorism Act (PTA) and introduce an Anti-Terrorism Act. Such legal reforms must be studied in the context of the abuse of the PTA and Emergency Powers carried out by consecutive Presidential regimes, with the present draft providing broad powers to the executive with limited checks and balances. CPA notes that the present Bill requires serious attention, especially when authorities have used security laws to target minorities, critics and protesters, entrenching a culture of torture and impunity in Sri Lanka. CPA reiterates that law reform alone cannot achieve far-reaching change in the absence of a genuine political will to change the culture of dehumanising treatment of persons under the guise of counter-terror.

In this initial comment on the proposed Anti- Terrorism Bill, CPA observes that the Bill bears significant similarity to the [Counter - Terrorism Bill](#) (the 2018 CTA) that was Gazetted in 2018, but subsequently never passed by Parliament. However, the new Bill contains several offences that were not a part of the 2018 CTA, some of which raise serious concern for the freedom of expression, potentially giving the State an additional tool to crack down on dissent and criticism. One improvement in the Bill is that confessions made by suspects in detention to a Police officer are no longer admissible in evidence - a general principle in the ordinary law, for which an exception was made in the PTA. The admissibility of confessions made in custody created a culture of 'forced confessions' leading to systemic injustices.

A major concern that remains, however, is with Detention Orders. The Bill places the power to make Detention Orders in the hands of a Deputy Inspector General of Police (DIG), a power which under the PTA is held by the Minister of Defense. However, while

the 2018 CTA allowed for the initial Detention Order by a DIG to extend up to 2 weeks, the Bill is more similar to the regime under the PTA, allowing the Detention Order to be made for up to 3 months. This is a major concern, which could lead to the suppression of the liberties of persons accused under this Bill, even if there is no substance to such allegations. Detention Orders can thereafter be extended beyond the initial 3 months, up to a year, but the extension must be approved by a Magistrate.

Under the Bill, the President is also given the power to make 'Proscription Orders' against organisations. These orders are to be issued against organisations accused of an offence amounting to terrorism, but also when the President 'has reasonable grounds' to believe an organisation is acting in a manner 'prejudicial to the national security of Sri Lanka, or any other country'. This wide power may be used to target legitimate dissent in the country, which, based on recent patterns of crackdown must be considered a very likely possibility.

Similar to the PTA, the President has wide powers to make regulations under the Bill. CPA has over the years raised concerns with and litigated regulations made under the PTA which have the potential to be used as a tool of suppression and abuse. This regulation-making power must be curtailed in order to protect the liberties of the citizenry. Especially concerning is the power granted to the President by the Bill to issue regulations to implement rehabilitation programmes for persons for whom the Attorney-General has recommended a deferment/suspension of criminal action, given the history of abuses and fundamental rights' violations committed during such rehabilitation processes. In 2021, CPA filed a [Fundamental Rights Application](#) challenging a similar set of regulations under the PTA, and the Supreme Court stayed the operation of the regulations.

CPA also notes that the definition of the 'offence of terrorism' in the Bill is overly-broad and contains vague undefined elements, such as acts 'violating territorial integrity or infringement of sovereignty of Sri Lanka or any other sovereign country'. The use of such terms is concerning given Sri Lanka's contentious history of repression and abuse of anti-terror laws. Moreover, this definition of the offence of terrorism, lacks precision, and adherence to the principles of necessity, proportionality, and legality.

CPA is concerned with the secrecy surrounding and the timing of the publishing of the Bill that is deeply problematic and is indicative of the lack of interest to genuinely engage with the public on a critical issue. The preliminary issues raised here is in the hope of constructively engaging with authorities and lawmakers, and to create a dialogue on whether such a law is even needed in Sri Lanka. This will be followed by a more detailed commentary on the clauses of the Bill in due course.

The present proposal must be viewed in light of Sri Lanka's legacy of abuse, and the systems in place that have facilitated such abuse. At a time when Sri Lanka is pursuing a path of recovery and rebuilding, it is critical to ensure that genuine measures are taken to address recurring practices of abuse and impunity and uphold the rule of law and democracy in Sri Lanka. Lawmakers must understand that given the history of abuse there is a long way to go in building public trust, and the onus is on the State to recover that trust by putting all the necessary checks and balances in place.